

Amendment No. 1 to HB1666

**Lamberth
Signature of Sponsor**

AMEND Senate Bill No. 2282

House Bill No. 1666*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-17-308(a)(1), is amended by deleting the language "Threatens, by telephone, in writing or by electronic communication, including, but not limited to, text messaging, facsimile transmissions, electronic mail or Internet services," and substituting instead the language "Communicates a threat".

SECTION 2. Tennessee Code Annotated, Section 39-17-308(a)(2), is amended by deleting the subdivision and substituting instead the following:

(2) Communicates with another without lawful purpose, anonymously or otherwise, with the intent that the manner, frequency, or means of the communication annoys, offends, alarms, or frightens the recipient and, by this action, annoys, offends, alarms, or frightens the recipient;

SECTION 3. Tennessee Code Annotated, Section 39-17-308(a)(3), is amended by deleting the language "by telephone" in its entirety.

SECTION 4. Tennessee Code Annotated, Section 39-17-308, is further amended by deleting subdivisions (d)(2) and (d)(3) and adding the following new subsection (f):

(1) The offense described in this section shall not apply to an entity providing an electronic communications service to the public acting in the normal course of providing that service.

(2) The service providers described in this subsection shall not be required to maintain any record not otherwise kept in the ordinary course of that service provider's business; provided, however, that if any electronic communications service provider

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operates a web site that offers a social network service and the electronic communications service provider provides services to consumers in this state, any log files and images or communications that have been sent, posted, or displayed on the social network service's web site and maintained by the electronic communications service provider shall be disclosed to any governmental entity responsible for enforcing this section only if the governmental entity:

(A) Obtains a warrant issued using this state's warrant procedures by a court of competent jurisdiction;

(B) Obtains a court order for the disclosure under subdivision (f)(4); or

(C) Has the consent of the person who sent, posted, or displayed any log files and images or communications on the social network service's web site maintained by the electronic communications service provider.

(3) No cause of action shall lie in any court against any provider of an electronic communications service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order or warrant.

(4) A court order for disclosure under subdivision (f)(2)(B) may be issued by any court that is a court of competent jurisdiction and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of an electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation. A court order shall not issue if prohibited by the law of this state. A court issuing an order

pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order, if the information or records requested are unusually voluminous in nature or compliance with the order otherwise would cause an undue burden on the provider.

SECTION 5. Tennessee Code Annotated, Section 39-17-308(e), is amended by adding the following as a new subdivision:

"Communicate" means contacting a person in writing or print or by telephone, wire, radio, electromagnetic, photoelectronic, photooptical, or electronic means, and includes text messages, facsimile transmissions, electronic mail, instant messages, and messages, images, video, sound recordings, or intelligence of any nature sent through or posted on social networks, social media, or web sites;

SECTION 6. This act shall take effect July 1, 2016, the public welfare requiring it.